

Chapter 243.
Motor Traffic Act 1950.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 243.

Motor Traffic Act 1950.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Motor Traffic Act 1950,

Being an Act relating to motor traffic, and for other purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears—

“**driver**” means, subject to Subsection (2), a person driving a motor vehicle;

“**drug**” means a dangerous drug within the meaning of the *Dangerous Drugs Act 1952*;

“**Inspector of Motor Traffic**” means an Inspector of Motor Traffic appointed by or under Section 5;

¹“**learners’s permit**” means a permit granted under Section 3 of the *Motor Traffic Regulation 1967*;

“**licence**” means a licence under the regulations;

“**metered zone**” means a public street or a part of a public street declared under Section 12(a) to be a metered zone;

“**motor vehicle**” means a motor car, motor carriage, motor cycle, motor truck, motor omnibus, motor tractor or other vehicle powered wholly or partly by—

(a) a volatile spirit; or

(b) steam, gas, oil or electricity; or

¹ Section 1(1) (definition of “learners's permit”) inserted by *Motor Traffic (Amendment) Act 1987* (No. 16 of 1987), s1(a).

- (c) any means other than human or animal power, and includes a trailer, but does not include a vehicle used on a railway or tramway;

“Motor Vehicles Insurance Ltd” means the company of that name (or any changed name) under the *Companies Act 1997* with company registration number 1-29221 or any amalgamated company resulting from an amalgamation of the company with one or more companies under the *Companies Act 1997*;

²**“motor vehicle owned by the State”** means a motor vehicle bearing number plates as provided by Section 19A(1)(e) of the *Motor Traffic Regulation 1967*;

“Motor Vehicles Registry” means—

- (a) a police station where an Inspector of Police is stationed; or
 (b) a place appointed under Section 7 to be a Motor Vehicles Registry;

“owner”, in relation to a motor vehicle that is the subject of a hire-purchase agreement, means the person in possession of the vehicle under the agreement;

“pedestrian” includes a person running, walking, sitting, standing or otherwise being on a road;

“public motor vehicle” means a motor vehicle used for carrying passengers for hire or reward;

“public motor vehicle licence” means a public motor vehicle licence under the regulations;

“public street” means a street, road, lane, thoroughfare, footpath, bridge or place—

- (a) that is open to or used by the public; or
 (b) to which the public have or are permitted to have access, whether on payment of a fee or otherwise;

“registered” means registered under the regulations;

“the Superintendent” means the Superintendent of Motor Traffic appointed by Section 4;

“this Act” includes the regulations;

“trailer” means subject to Subsection (3)—

- (a) a vehicle without motive power; or
 (b) a machine that is mounted on wheels,

² Section 1(1) (definition of “motor vehicle owned by the State”) inserted by *Motor Traffic (Amendment) Act 1987* (No. 16 of 1987), s1(b).

that is constructed or adapted for being drawn by a motor vehicle;

“vehicle” means any description of vehicle on wheels other than a vehicle used on a railway or tramway.

(2) For the purposes of this Act, the person driving a motor vehicle to which a trailer is attached shall be deemed to be driving the trailer.

(3) For the purposes of this Act, a vehicle without motive power constructed or adapted for being drawn by a motor vehicle shall not be deemed to be a trailer, but shall be deemed to be part of the motor vehicle by which it is drawn, if—

- (a) it is constructed or adapted for attachment to a motor vehicle by means of a turntable or kingpin; and
- (b) a substantial part of its weight and of the weight of its load rests on the motor vehicle.

2. ACT TO BIND THE STATE.

This Act binds the State.

3. SAVING OF LIABILITY UNDER OTHER LAWS.

This Act does not affect any liability of a person by virtue of any other law.

PART II. – ADMINISTRATION.**4. SUPERINTENDENT OF MOTOR TRAFFIC.**

³The Departmental Head of the Department responsible for the administration of all legislation pertaining to land transport matters—

- (a) is the Superintendent of Motor Traffic; and
- (b) under the Minister, is charged with the administration of this Act.

5. INSPECTORS OF MOTOR TRAFFIC.

(1) Every commissioned officer of the Police Force is an Inspector of Motor Traffic.

(2)⁴ ⁵The Minister may, by notice in the National Gazette, appoint an officer of the Public Service to be an Inspector of Motor Traffic in any place.

6. TRAFFIC DISTRICTS.

Each province is a Traffic District for the purposes of this Act.

7. MOTOR VEHICLES REGISTRIES.

The Minister may, by notice in the National Gazette, appoint places to be Motor Vehicles Registries for the purposes of this Act.

8. DELEGATION.

(1) The Superintendent may, by instrument under his hand, delegate to an Inspector of Motor Traffic all or any of his powers and functions under this Act (except this power of delegation).

(2) The Superintendent may, by instrument under his hand, delegate to—

- (a) a Provincial Government; or
- (b) Motor Vehicles Insurance Ltd.,

his powers and functions in relation to the—

- (c) application for; and
- (d) grant or renewal of; and
- (e) cancellation or suspension of,

a public motor vehicle licence.

³ Section 4 amended by the *Motor Traffic (Amendment) Act* 1989 (No 11 of 1989).

⁴ Section 5(2) amended by No. 9 of 1978, s1.

⁵ Section 5(2) amended by No. 9 of 1978, s1.

9. AUSTRALIAN GOVERNMENT VEHICLES.

Notwithstanding this Act, if the Superintendent is satisfied that—

- (a) a motor vehicle is the property of the Government of Australia; and
- (b) the number-plates bearing the registration number of the vehicle were issued by the Department of Administrative Services of Australia,

it is not necessary for the vehicle to carry any number-plate in addition to those so issued.

**PART III. – REGISTRATION OF VEHICLES AND LICENSING OF DRIVERS,
ETC.****10. REGISTRATION, LICENSING, ETC.**

The regulations shall make provision, in accordance with Section 47, for and in respect of—

- (a) the registration of motor vehicles; and
- (b) the licensing of drivers.

11. PERMITS TO DRIVE UNREGISTERED VEHICLES.

⁶(1) Notwithstanding Section 22, the Superintendent may, in his discretion—

- (a) on payment of the prescribed fee; and
- (b) on production of third party insurance cover,

grant to a primary producer or motor vehicle dealer who owns an unregistered motor vehicle a permit in the prescribed form to drive the vehicle along a route or routes specified in the permit, for such purposes and during such period as the Superintendent thinks proper.

(2) A permit granted under Subsection (1) is subject to such conditions as the Superintendent thinks proper.

(3) A permit shall not be granted under Subsection (1) for a tractor unless the tractor—

- (a) is equipped with pneumatic tyres; or
- (b) in the opinion of the Superintendent, will not cause undue damage to roads.

(4) If a motor vehicle for which a permit under Subsection (1) is in force is driven on a road otherwise than in accordance with the terms and conditions of the permit, the person driving the vehicle is guilty of an offence.

Penalty: A fine not exceeding K500.00.

⁶ Section 11 amended by No. 4 of 1981, s4.

PART IV. – METERED PARKING.

12. METERED ZONES.

The Superintendent may–

- (a) declare a public street or a portion of a public street to be a metered zone; and
- (b) cause a traffic sign–
 - (i) indicating where metered parking is authorized; or
 - (ii) defining a metered space in a metered zone; or
 - (iii) indicating the maximum period during which a motor vehicle may be parked in a metered zone; or
 - (iv) indicating the hours in which or the days on which metered parking only is permitted in a metered zone; or
 - (v) defining a loading zone; or
 - (vi) defining a vehicle stand; or
 - (vii) necessary or desirable for the safe and effective regulation of traffic,
 - to be constructed, marked, placed, erected or affixed in or near a public road or part of a public road that is in a metered zone or that is a metered zone; and
- (c) alter or remove a traffic sign constructed, marked, placed, erected or affixed under Paragraph (b).

13. COUNCIL PARKING METERS.

(1) A Local-level Government may install in a metered zone, and maintain, parking meters in accordance with this Part.

(2) A Local-level Government that has installed a parking meter in the area administered by the Local-level Government shall–

- (a) collect the money inserted in the meter; and
- (b) pay the amounts collected into the general revenue of the Council.

14. GOVERNMENT PARKING METERS.

(1) In an area where there is no Local-level Government, or no Local-level Government prepared to install and maintain parking meters in accordance with this Part, parking meters may be installed and maintained in a metered zone by the State.

(2) The amounts collected from the parking meters installed and maintained under Subsection (1) shall be paid into the Consolidated Revenue Fund.

15. INSTALLATION OF PARKING METERS.

A parking meter installed under Section 13 or 14 shall be placed in a metered space defined under Section 12(b)(ii) in a position approved by the Superintendent.

16. LIABILITY IN RESPECT OF PARKING OFFENCES IN METERED ZONES.

(1) Subject to Subsection (4), where an offence is committed in relation to the parking of a motor vehicle in a metered zone the person who at the time of the commission of the offence was the owner of the vehicle—

- (a) shall be deemed to have committed the offence; and
- (b) may be proceeded against for the commission of the offence.

(2) For the purposes of Subsection (1), the person in whose name the motor vehicle is registered shall be deemed to be the owner of the vehicle.

(3) The court hearing a complaint of an offence in relation to the parking of a motor vehicle in a metered zone shall, unless the contrary is proved, presume that the parking meter in respect of which the complaint has arisen was at all times and in all respects in good and correct working order and condition.

(4) Notwithstanding Subsection (1), the owner of a motor vehicle shall not, by virtue of that subsection, be deemed to be guilty of an offence not actually committed by him if he proves, to the satisfaction of the court—

- (a) that the vehicle was sold before the date on which the offence was committed; or
- (b) that, at the time of the offence, the vehicle was stolen or being unlawfully used without his consent.

PART IVA.⁷ – CERTAIN FEES TO BE PAID TO PROVINCIAL GOVERNMENTS.

16A. CERTAIN FEES TO BE PAID TO PROVINCIAL GOVERNMENT BODIES, ETC.

⁸(1) Where the Superintendent has delegated to—

- (a) a provincial government body; or
- (b) Motor Vehicles Insurance Ltd.,

his powers and functions under Section 8(2), the power, authority, function, duty or responsibility to collect fees in respect of—

- (c) an application for a public motor vehicle licence; or
- (d) a public motor vehicle licence; or
- (e) a certificate of registration as a public hire car or a private hire car; or
- (f) a temporary licence; or
- (g) a certificate of registration as a motor omnibus,

under the *Motor Traffic Regulation*, is vested in the Provincial Government or Motor Vehicles Insurance Ltd., as the case may be.

(2) Where any fees are collected under this section by a body referred to in Subsection (1)(a) or (b), the amounts so collected—

- (a) shall be deemed not to be public moneys of the State, but shall be revenue of the body that collects them; and
- (b) shall be paid into the general revenue of that body.

⁷ Part IVA added by No. 9 of 1978 s4.

⁸ Section 16A added by No. 9 of 1978 s4.

PART V. – OFFENCES.***Division 1.******Offences Generally.*****17. DANGEROUS DRIVING AND NEGLIGENT DRIVING.**

(1)⁹ ¹⁰A person who drives a motor vehicle on a public street negligently, furiously or recklessly, or at a speed or in a manner that is dangerous to the public, is guilty of an offence.

Penalty: A fine of not less than K15.00 and not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

(2)¹¹ ¹²A person who drives a motor vehicle on a public street without due care and attention, or without reasonable consideration for other road users, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) In considering whether an offence has been committed against this section, the court shall have regard to all the circumstances of the case, including–

- (a) the nature, condition and use of the street on which the offence is alleged to have been committed; and
- (b) the amount of traffic that was or might reasonably have been expected to have been on the street at the time.

18. DRIVING UNDER THE INFLUENCE.

¹³A person who, while he is under the influence of intoxicating liquor or a drug–

- (a) drives a motor vehicle on a public street; or
- (b) occupies the driving seat of a motor vehicle on a public street and attempts to put the motor vehicle in motion,

is guilty of an offence.

Penalty: ¹⁴For a first offence—a fine not less than K50.00 and not exceeding K300.00 or imprisonment for a term not less than three months and not exceeding 12 months, or both a fine and imprisonment.

For a second or subsequent offence—a fine not less than K400.00 and not exceeding K300.00 or imprisonment for a term not less than six

⁹ Section 17(1) amended by No. 111 of 1973, s3.

¹⁰ Section 17(1) amended by No. 111 of 1973, s3.

¹¹ Section 17(2) amended by No. 4 of 1981, s4.

¹² Section 17(2) amended by No. 4 of 1981, s4.

¹³ Section 18 amended by No. 111 of 1973, s5.

¹⁴ Section 18: Penalty clause amended by *Motor Traffic (Amendment) Act 1987* (No. 16 of 1987), s2.

months and not exceeding 12 months, or both a fine and imprisonment.

19. PREVENTION OF DRIVING UNDER THE INFLUENCE, ETC.

(1) Subject to Subsection (2), where a member of the Police Force is of opinion on reasonable grounds that a person who is driving, or appears to him to be about to drive, a motor vehicle is by reason of his physical or mental condition incapable of having proper control of the vehicle, he may do all or any of the following things:—

- (a) forbid the person to drive the vehicle while he is so incapable;
- (b) require him to deliver up immediately all ignition or other keys of the vehicle in his actual possession;
- (c) take such other steps as are in his opinion necessary to make the vehicle immobile or to remove it to a place of safety.

(2) Subsection (1) does not authorize—

- (a) the detention of keys; or
- (b) the immobilization or detention of a motor vehicle,

for any longer period than is necessary in all the circumstances of the case in the interests of the person or of any other person, or of the public.

(3) Subject to Subsection (4), a person who—

- (a) contravenes or fails to comply with a prohibition or requirement made by a member of the Police Force under this section; or
- (b) attempts to obstruct a member of the Police Force in the exercise of any power conferred on him by this section,

is guilty of an offence.

Penalty: For a first offence—a fine not exceeding K100.00.

For a second or subsequent offence—a fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

(4) A person shall not be found guilty of an offence against this section unless the court is satisfied that the member of the Police Force concerned had reasonable grounds for believing that in all the circumstances of the case the action taken by him under Subsection (1) was necessary in the interests of the person or of any other person, or of the public.

20. MEDICAL EXAMINATION OF ARRESTED PERSONS.

A person who is arrested for an offence against Section 18 or 19 is entitled, on request made by him or on his behalf, to be examined by a medical practitioner, and where any such request is made the member of the Police Force making the arrest shall afford all reasonable facilities for the holding of the examination.

21. UNLICENSED DRIVERS.

¹⁵(1) Subject to this Act, a person who drives a motor vehicle on a public street without being licensed for the purpose is guilty of an offence.

Penalty: A fine of not less than K10.00 and not exceeding K500.00.

(2) Subject to this Act, a person who employs or permits an unlicensed person to drive a motor vehicle on a public street is guilty of an offence.

Penalty: A fine not exceeding K500.00.

22. UNREGISTERED VEHICLES, ETC.

¹⁶(1) Subject to this Act and in particular to Section 11, a person who drives, or causes or permits to be driven, on a public street, an unregistered motor vehicle is guilty of an offence.

Penalty: A fine of not less than K20.00 and not exceeding K500.00.

(2) Subject to this Act and in particular to Section 11, a person who drives, or causes or permits to be driven, on a public street a motor vehicle that—

- (a) does not have the prescribed number-plate properly affixed to it; or
- (b) has its number-plate obscured so that the numbers on the plate are not clearly visible; or
- (c) has the original numbers on its number-plate obliterated by paint or any other material; or
- (d) has its number-plate so damaged that the original numbers are not complete and distinctly visible,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) A person is not liable to a penalty for an offence against Subsection (1) or (2) if he proves to the satisfaction of the court that—

- (a) the breach was the result of an accident; or
- (b) the vehicle concerned—
 - (i) was being driven to the nearest Motor Vehicles Registry for the purpose of being registered; and
 - (ii) otherwise complied with the prescribed conditions.

¹⁵ Section 21 amended by No. 111 of 1973, s6 and No. 4 of 1981, s2 and s4.

¹⁶ Section 22 amended by No. 111 of 1973, s6, No. 4 of 1981, s4.

23. VEHICLES CARRYING PASSENGERS.

¹⁷A person who causes or permits a motor vehicle (other than a vehicle in respect of which the prescribed public motor vehicle licence is in force) to be used for carrying passengers for hire or reward is guilty of an offence.

Penalty: A fine not exceeding K500.00.

24. STOPPING IN CASE OF ACCIDENTS.

¹⁸Where injury or damage is caused to a person or to an animal or vehicle in the charge of a person because of an accident in which a motor vehicle is concerned, if the driver of the motor vehicle—

- (a) fails to stop his vehicle; or
- (b) fails, when required—
 - (i) by the person who is injured or whose animal or vehicle is injured or damaged; or
 - (ii) by a member of the Police Force,
 - to give—
 - (iii) his name and address; and
 - (iv) the name and address of the owner of the motor vehicle; and
 - (v) the registration number of the motor vehicle; or
- (c) fails to report the accident to the officer-in-charge of the police station nearest the scene of the accident as soon as practicable, and in any case within 24 hours,

he is guilty of an offence.

Penalty: A fine not exceeding K500.00.

25. UNAUTHORIZED USE OF VEHICLES.

(1) Subject to Subsection (2), a person who drives or uses a motor vehicle without first obtaining the consent of the owner is guilty of an offence.

Penalty: ¹⁹A fine not exceeding K2,000.00 or imprisonment for a term not exceeding five years, or both.

(2) Notwithstanding anything in this Act, Subsection (1) does not apply to a member of the Police Force in the execution of his duty.

¹⁷ Section 23 amended by No. 4 of 1981, s4.

¹⁸ Section 24 amended by No. 4 of 1981, s4.

¹⁹ Section 25(1): Penalty clause amended by *Motor Traffic (Amendment) Act* 1987 (No. 16 of 1987), s3.

26. UNAUTHORIZED INTERFERENCE WITH VEHICLES.

²⁰A person who interferes with or tampers with a motor vehicle or any part of a motor vehicle without the consent of the owner of the vehicle is guilty of an offence.

Penalty: ²¹A fine not exceeding K2,000.00 or imprisonment for a term not exceeding five years, or both.

27. FAILURE TO PAY FARE.

A person who, in respect of a journey in a public motor vehicle, refuses or fails, without reasonable excuse (proof of which is on him), to pay the regular charge or fare payable by him when demanded from him by the owner or the driver of the vehicle, or by an employee of the owner, is guilty of an offence.

Penalty: A fine not exceeding K10.00.

28. HIRING OF VEHICLE BY FRAUD.

²²A person who procures the use or hire of a motor vehicle by fraud or misrepresentation is guilty of an offence.

Penalty: A fine not exceeding K500.00.

29. LIMITATION OF SPEED.

²³(1) The Minister may, by notice in the National Gazette, limit the speed at which a motor vehicle may travel—

- (a) on a public street; or
- (b) on any part of a public street; or
- (c) in an area,

specified in the notice.

(2) A person who drives a motor vehicle on a public street or a part of a public street, or in an area, specified in a notice under Subsection (1) at a speed greater than the speed permitted by the notice is guilty of an offence.

Penalty: A fine not exceeding K500.00.

30. PRODUCTION OF LICENCE, ETC., ON DEMAND.

²⁴(1) A driver of a motor vehicle who fails to produce his licence when required to do so by a member of the Police Force, or an Inspector of Motor Traffic in the execution of his duty under this Act is guilty of an offence.

²⁰ Section 26 amended by No. 4 of 1981, s4.

²¹ Section 26: Penalty clause amended by *Motor Traffic (Amendment) Act* 1987 (No. 16 of 1987), s4.

²² Section 28 amended by No. 4 of 1981, s4.

²³ Section 29 amended by No. 4 of 1981, s4.

Penalty: A fine of not less than K1.00 and not exceeding K500.00.

(2) A driver of a motor vehicle who, when required by a member of the Police Force, or an Inspector of Motor Traffic in the execution of his duty under this Act to state his name and place of abode—

- (a) refuses to do so; or
- (b) states a false name or place of abode,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

31. FAILURE TO ASSIST IN IDENTIFICATION OF OFFENDING DRIVER.

²⁵The owner of, or a passenger in, a motor vehicle who, when required by a member of the Police Force, or an Inspector of Motor Traffic to give any information that—

- (a) it is in his power to give; and
- (b) may lead to the identification of the person who was driving the vehicle when an offence against this Act is alleged to have been committed,

refuses or fails to give the information is guilty of an offence.

Penalty: A fine not exceeding K500.00.

32. MISCELLANEOUS OFFENCES RELATING TO LICENCES, REGISTRATION, ETC.

²⁶A person who—

- (a) by a false statement or misrepresentation obtains or attempts to obtain a licence, certificate of registration or permit under Section 11; or
- (b) wilfully furnishes false or misleading information with regard to particulars required by this Act to be furnished in relation to a licence, certificate of registration or permit under Section 11; or
- (c) without lawful excuse, has in his possession—
 - (i) a licence, certificate of registration, permit under Section 11, registration label or number-plate issued under this Act; or
 - (ii) an article—
 - (A) resembling a licence, certificate of registration, permit under Section 11, registration label or number-plate issued under this Act; and

²⁴ Section 30 amended by No. 111 of 1973 s4; and; amended by No. 9 of 1978, s3; and; amended by No. 4 of 1981, s1 and s4.

²⁵ Section 31 amended by No. 9 of 1978, s3 and No. 4 of 1981, s4.

²⁶ Section 32 amended by No. 4 of 1981, s4.

- (B) calculated to deceive; or
- (d) forges, fraudulently alters or uses or fraudulently lends to, or allows to be used by, any other person a licence, permit under Section 11, number-plate or mark for identifying a motor vehicle under this Act; or
- (e) owns or drives on a public street an unregistered motor vehicle having on it any numbers or number-plate—
 - (i) of a description prescribed to be affixed to motor vehicles; and
 - (ii) calculated to deceive; or
- (f) except as authorized by this Act, transfers, or causes or permits to be transferred, a number-plate issued under this Act in respect of a motor vehicle to any other motor vehicle, or causes or permits such a number-plate to be on any other motor vehicle; or
- (g) affixes to, or causes or permits to be affixed to, or to be on, an unregistered motor vehicle—
 - (i) a number-plate, or an article on which there is a number, resembling, but not being, a prescribed number-plate; or
 - (ii) a prescribed number-plate that has been altered in contravention of this Act; or
- (h) sells, disposes of or buys, or attempts to sell, dispose of or buy, a number-plate or certificate of registration, otherwise than as part of the sale, disposal or purchase of the vehicle in respect of which the number-plate or certificate of registration was issued; or
- (i) sells, disposes of or buys, or attempts to sell, dispose of or buy, a permit under Section 11,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

33. PRODUCTION OF LICENCE TO COURT.

²⁷A licensed driver charged with an offence against this Act who fails, without reasonable excuse, to produce his licence to the court at the time of hearing is guilty of an offence.

Penalty: A fine not exceeding K500.00.

²⁷ Section 33 amended by No. 4 of 1981, s4.

*Division 2.**Summary Provision in Certain Cases.***34. ON-THE-SPOT FINES.**

²⁸(1) Where it appears to a member of the Police Force or a prescribed officer that a person has committed a prescribed offence against this Act, the member of the Police Force or prescribed officer may serve on the person a notice in the prescribed form to the effect that if he does not desire to have the matter determined by a court he may pay to an officer specified in the notice, within the time specified in the notice, the amount of the penalty prescribed for the offence if dealt with under this section.

(2) A notice under Subsection (1) may be served—

(a) personally or by post; or

(b) by leaving it on or in, or attaching it to, the vehicle.

(3) A person alleged to have committed an offence to which Subsection (1) applies has the right to decline to be dealt with under this section.

(4) For the purposes of Subsection (3), a person who fails to pay, within the time specified in the notice or such further time as is allowed in any particular case, the penalty to which a notice under Subsection (1) relates shall be deemed to have declined to be dealt with under this section.

(5) Where the amount of the prescribed penalty for an alleged offence is paid in accordance with this section, no person is liable to any further proceedings for the offence.

(6) Payment, in accordance with this section, of a penalty in respect of an alleged offence—

(a) shall not be regarded as an admission of liability for the purposes of; and

(b) does not affect or prejudice,

any criminal proceedings other than proceedings for the alleged offence or any civil claim, action or proceeding arising out of the same occurrence.

(7) The regulations may—

(a) prescribe the offences that are prescribed offences for the purposes of this section by—

(i) setting out the offences; or

(ii) referring to the provisions creating the offences; and

(b) prescribe the amount of, and the method of payment of, the penalty payable under this section for a prescribed offence.

²⁸ Section 34 amended by No. 4 of 1981, s4.

(8) A penalty prescribed for the purposes of this section for a prescribed offence shall not exceed—

- (a) the maximum amount of penalty that could be imposed for the offence by a court; or
- (b) a fine of K500.00,

whichever is the less.

(9) Subject to Subsections (5) and (6), this section is supplementary to, and not in derogation of, any other provision of this Act or any other law in relation to proceedings that may be taken in respect of prescribed offences.

Division 3.²⁹

Traffic Infringement Summons.

34A. TRAFFIC INFRINGEMENT SUMMONS.

³⁰(1) Where it appears to a member of the Police Force or a prescribed officer that a person has committed a prescribed offence against this Act, that member of the Police Force or prescribed officer may serve on the person a Traffic Infringement Summons.

- (2) A Traffic Infringement Summons shall be in the prescribed form and shall—
 - (a) be directed against the person named in the summons as the person alleged to have committed the prescribed offence; and
 - (b) specify the alleged offence; and
 - (c) specify the penalty prescribed for that offence; and
 - (d) specify the court to the Clerk of which the penalty may be paid within a period of 14 days commencing on the day following the day on which the Summons is served; and
 - (e) state that in the event of—
 - (i) payment of the penalty at the court and within the period specified, the case will not be called in court; and
 - (ii) non-payment of the fine at the court within the specified period, the case will be called on the first day on which the court sits following the expiry of the specified period; and
 - (iii) . . . [Omitted]
 - (iv) the person named in the Summons wishing to plead not guilty or otherwise wishing to be heard by the court, he should appear or be represented in the court on the first day on which the court sits following the expiry of the specified period.

²⁹ Division V.3 added by No. 4 of 1981, s3.

³⁰ Section 34A added by No. 4 of 1981, s3.

(3) A person who serves a Traffic Infringement Summons shall immediately after service—

- (a) make an affidavit, endorsed on the original Summons, stating the day and place of service; and
- (b) transmit the original Summons to the Clerk of the Court specified in the Summons for subsequent production at the court if required in accordance with the provisions of this Act in the event of non-payment of the sum specified within the time specified.

(4) A Traffic Infringement Summons containing an affidavit purporting to be an affidavit of service is *prima facie* evidence of the service of the summons.

34B. PROCEDURE ON TRAFFIC INFRINGEMENT SUMMONS.

³¹(1) For the purpose of this section—

“defendant” means a person on whom a Traffic Infringement Summons has been served;

“specified” means specified in the Traffic Infringement Summons.

(2) Following the service of a Traffic Infringement Summons—

- (a) where the defendant pays the specified penalty to the Clerk of the specified court within the specified period, the matter proceeds no further; or
- (b) where payment is not made under Paragraph (a)—the case is called in the specified court on the first day on which the court sits following the expiry of the specified period; or
- (c) where the case is called under Paragraph (b) and—
 - (i) the defendant is not present or represented, a plea of guilty shall be recorded and the matter dealt with in accordance with the procedure of the court; or
 - (ii) the defendant is present or represented, the matter shall be dealt with in accordance with the procedure of the court.

³¹ Section 34B added by No. 4 of 1981, s3.

PART VI. – EFFECT OF CONVICTION.**35. AUTOMATIC DISQUALIFICATION, ETC.**

³²Where a person is convicted of an offence against Section 17(1) or 18, the court that convicts him shall disqualify him from holding and obtaining a licence for such period as it thinks proper, not being less than—

- (a) in the case of a first offence—
 - (i) against Section 17(1)—three months; and
 - (ii) against Section 18—six months; and
- (b) in the case of a second or subsequent offence against either of those sections—12 months.

36. DISCRETIONARY SUSPENSION, DISQUALIFICATION, ETC.

(1) Subject to Section 35, the court that convicts a person of an offence against this Act may, in addition to any other punishment to which the person is liable under this Act in respect of the offence—

- (a) if he holds a licence or a permit under Section 11—
 - (i) suspend the licence or permit for such time as the court thinks proper and, if the court thinks fit, also direct that no licence and no such permit be granted to him during such further time after the expiration of the licence or permit as the court thinks proper; or
 - (ii) cancel the licence or permit and, if the court thinks fit, declare him to be disqualified from obtaining a licence or such a permit for such time as the court thinks proper; and
- (b) if he does not hold a licence or a permit under Section 11—direct that no licence or permit be granted to him during such time as the court thinks proper.

(2) A person whose licence or permit under Section 11 is suspended is, during the period of suspension, disqualified from obtaining a licence or permit.

36A. DRIVING WHILE DISQUALIFIED.

³³A person who drives a motor vehicle on a public street—

- (a) while disqualified by a court from holding or obtaining a—
 - (i) driving licence; or
 - (ii) learner's permit; or

³² Section 35 amended by No. 111 of 1973, s5.

³³ Section 36A inserted by *Motor Traffic (Amendment) Act 1987* (No. 16 of 1987), s5.

- (iii) permit under Section 11; or
- (b) while his—
 - (i) driving licence; or
 - (ii) learner's permit; or
 - (iii) permit under Section 11,
 has been suspended by order of a court,

is guilty of an offence.

Penalty: A term of imprisonment not less than three months.

37. ENDORSEMENT OF LICENCE OR PERMIT.

³⁴(1) Where the holder of a licence or of a permit under Section 11 is convicted of an offence against this Act, the court that convicts him shall cause particulars of the conviction to be endorsed on the licence or permit.

(2) Where the holder of a licence or of a permit under Section 11 is convicted of an offence against this Act, he must produce his licence or permit within a reasonable time for the purpose of endorsement.

Penalty: A fine not exceeding K500.00.

38. WRONGFULLY OBTAINING, ETC., LICENCE, ETC.

³⁵If—

- (a) a person who is disqualified under this Act from obtaining a licence or a permit under Section 11 applies for or obtains a licence or such a permit, or a renewal of a licence or of such a permit, while he is so disqualified; or
- (b) a person whose licence or permit under Section 11 has been endorsed in accordance with Section 37 applies for or obtains a licence or such a permit, or a renewal of a licence or of such a permit, without giving particulars of the endorsement,

the licence or permit is of no effect and he is guilty of an offence.

Penalty: A fine not exceeding K500.00.

39. PARTICULARS OF CONVICTIONS, ETC.

The court that makes a conviction or order under this Act shall cause particulars of the conviction or order to be forwarded to the prescribed officer.

³⁴ Section 37 amended by No. 4 of 1981, s4.

³⁵ Section 38 amended by No. 4 of 1981, s4.

PART VII. – MISCELLANEOUS.**40. ARREST WITHOUT WARRANT.**

A member of the Police Force may, without warrant, arrest—

- (a) a person in the act of committing, or immediately after having committed, an offence against Section 18, 19, 25, 26, 30(2) or 31; or
- (b) a person whom he believes on reasonable grounds to have committed any such offence.

41. OFFENCES DUE TO ACCIDENT.

A person is not liable to be convicted of an offence against this Act if he proves to the satisfaction of the court hearing the case that the offence could not have been avoided by reasonable efforts on his part.

42. RECORDS OF REGISTRATIONS, LICENCES, ETC.

(1) Particulars of the registration of motor vehicles and of the issue of certificates, permits under Section 11 and licences shall be recorded at the prescribed office or offices.

(2) An extract from or copy of any entry contained in a record kept in accordance with Subsection (1), certified by a prescribed officer, shall, in all courts and on all occasions, be—

- (a) received as evidence; and
- (b) deemed to be sufficient proof of all particulars contained in the entry,

without requiring the production of the books, permit, licence, requisition, notice or other document on which the entry was founded.

43. EVIDENCE OF REGISTRATION AND OWNERSHIP.

In any proceedings under this Act—

- (a) proof that a motor vehicle has not on it the prescribed distinguishing number is *prima facie* evidence that the vehicle is not registered; and
- (b) proof that a person registered a motor vehicle is *prima facie* evidence that he is the owner of the vehicle.

44. POWERS AND DUTIES OF POLICE.

(1) Every member of the Police Force shall do all things in his power to ensure that this Act is duly observed.

(2) In all cases not expressly provided for, a member of the Police Force in the execution of his duty under this Act may give such reasonable directions—

- (a) to persons driving motor vehicles or driving or riding other vehicles or animals; or
- (b) to pedestrians,

on a public street as are in his opinion necessary for the safe and efficient regulation of the traffic on the street.

44A. POWERS OF POLICE IN RELATION TO CERTAIN VEHICLES OWNED BY THE STATE, ETC.

³⁶(1) Where a motor vehicle owned by the State is being driven on a public street—

- (a) outside the prescribed hours; and
- (b) without bearing the prescribed label authorizing its being driven outside the prescribed hours,

a member of the Police Force may do all or any of the following things:—

- (c) order the driver of the motor vehicle to stop;
- (d) forbid the driver to drive the motor vehicle;
- (e) require the driver to supply particulars of his name, occupation and address;
- (f) require the driver to deliver up immediately all ignition keys and other keys of the motor vehicle in his actual possession;
- (g) take such other steps as are in the opinion of the member of the Police Force necessary to make the motor vehicle immobile or to remove it to a place of safety.

(2) Where a member of the Police Force has taken action under Subsection (1), he shall, as soon as is practicable, notify in the prescribed manner the Departmental Head of the Department of Personnel Management or a person authorized by the Departmental Head of the Department of Personnel Management for the purpose, of the action taken.

(3) A motor vehicle detained under Subsection (1) shall not be released except to a person authorized in writing by the Departmental Head of the Department of Personnel Management as a person authorized to collect motor vehicles so detained.

45. SERVICE OF NOTICES.

A notice under this Act shall be deemed to be duly served on an owner or driver of a motor vehicle if it is—

- (a) served personally; or

³⁶ Section 44A inserted by *Motor Traffic (Amendment) Act 1987* (No. 16 of 1987), s6.

- (b) left at the last address specified in or endorsed on the licence of the owner or driver.

46. SPEED-MEASURING AND TIME-MEASURING DEVICES.

Where in any proceedings for an offence against Section 29 or any other law, the speed at which a motor vehicle travelled on the occasion of the alleged offence is relevant, evidence of the speed of the vehicle, as indicated or determined on that occasion by means of a prescribed speed-measuring or time-measuring device, used in the prescribed manner and subject to the prescribed conditions, is, without prejudice to any other mode of proof, *prima facie* evidence of the speed of the vehicle on that occasion.

47. REGULATIONS.

³⁷The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for—

- (a) the regulation of the owners and drivers of motor vehicles; and
- (b) the regulation of the registration of motor vehicles, and the manner, duration, suspension, cancellation, transfer and renewal of registration; and
- (c) the granting of permits under Section 11; and
- (d) the licensing of drivers of motor vehicles; and
- (e) the regulation of the grant of licences, and of the renewal, transfer, suspension, cancellation and return of licences; and
- (f) the replacement of lost licences; and
- (g) the licensing of public motor vehicles; and
- (h) the regulation of the grant of public motor vehicle licences, and of the renewal, transfer, suspension, cancellation and return of such licences; and
- (i) prescribing maximum charges or fares to be made or charged in relation to public motor vehicles; and
- (j) prescribing the form, construction and equipment of public motor vehicles; and
- (k) providing that a public motor vehicle licence shall not be granted or renewed except in respect of a motor vehicle the owner of which is insured as prescribed against his liability for damages in respect of the vehicle in case of injury to persons; and

³⁷ Section 47 amended by No. 9 of 1978, s5.

- (*l*) prescribing the qualifications of drivers of motor vehicles, and the age or ages at which persons may drive motor vehicles; and
- (*m*) prescribing places for—
 - (i) the registration of, and for application for the grant of permits under Section 11 in relation to, motor vehicles; and
 - (ii) the licensing of drivers; and
- (*n*) regulating the use of motor vehicles on public streets, and the conditions under which they may be so used; and
- (*o*) regulating, subject to Section 29, the speed at which motor vehicles may travel; and
- (*p*) regulating—
 - (i) the weights of the loads and the numbers of passengers that may be carried on different kinds of motor vehicles; and
 - (ii) the carrying on motor vehicles of long, large, heavy or projecting articles; and
- (*q*) prescribing and regulating the carrying of lights on motor vehicles; and
- (*r*) prescribing and regulating the affixing and use of horns or other means of alarm; and
- (*s*) prescribing and regulating the affixing of efficient brakes on motor vehicles; and
- (*t*) preventing or minimizing—
 - (i) the noise; and
 - (ii) the issue of smoke or fumes,
 - from the working of the machinery or engines of motor vehicles; and
- (*u*) prohibiting the use of motor vehicles that, owing to their construction or other cause, are unsuitable for safe use; and
- (*v*) prescribing the rules of the road to be observed by drivers of motor vehicles; and
- (*w*) the regulation of motor traffic both generally and in respect of particular localities or public streets; and
- (*x*) the prohibition or restriction of motor traffic—
 - (i) in particular localities or public streets; and
 - (ii) for a specified period or otherwise; and
 - (iii) in respect of a class or all classes of motor vehicles; and

- (y) providing that motor vehicles shall have separate distinguishing numbers, and regulating—
 - (i) the form of the numbers; and
 - (ii) the manner of affixing them on vehicles; and
 - (iii) the issue and return of them; and
- (z) the erection of uniform signs and notices for the guidance of motor drivers; and
- (za) the temporary registration of motor vehicles owned by persons residing outside the country and temporarily in the country, and the drivers of such vehicles; and
- (zb) the issue of special number-plates to manufacturers of, or dealers in, motor vehicles for use on motor vehicles in their possession, on trial before or after completion, and prescribing the conditions under which such plates may be used; and
- (zc) regulating or prohibiting the manufacture, repair, cleansing or assembling of motor vehicles in public streets; and
- (zd) subject to the *Inflammable Liquid Act 1953*, regulating or prohibiting the conveyance of inflammable liquid in or on motor vehicles used for the carriage of passengers for hire or reward; and
- (ze) the seizure and custody of motor vehicles that—
 - (i) are dangers or unreasonable obstructions to traffic; or
 - (ii) have been abandoned in a public street,
and for—
 - (iii) the recovery of any expenses incurred in the seizure and custody of any such vehicle; and
 - (iv) its disposal or destruction if the owner fails to claim it or to pay any expenses referred to in Subparagraph (iii) within the prescribed time; and
- (zf) requiring the carrying of efficient fire extinguishers on specified classes of motor vehicles used for the carriage of passengers for hire or reward; and
- (zg) making provision for or with respect to the marking of tyres of motor vehicles by means of crayon, chalk or a similar substance by members of the Police Force, or an Inspector of Motor Traffic for any purpose connected with the enforcement of any of the provisions of this Act; and
- (zh) prohibiting or restricting any person (other than the driver or other prescribed person) from—
 - (i) parking, minding, caring for or taking charge of a motor vehicle on a public street; or

- (ii) offering his services for any such purpose; and
- (zi) prohibiting or regulating the setting up and use of stalls, stands and vehicles for—
 - (i) the sale of goods; or
 - (ii) the pursuit of any business, calling or employment,
in a public street; and
- (zj) prohibiting loitering and the obstruction of traffic in the carriageways of public streets; and
- (zk) regulating the use of trailers; and
- (zl) prescribing rules for the taking up and setting down of passengers; and
- (zm) appointing officers of the Public Service and commissioned officers of the Police Force to administer this Act, and defining their powers and duties; and
- (zn) prescribing the manner in which registers shall be kept; and
- (zo) prescribing the forms of—
 - (i) certificates of registration; and
 - (ii) permits under Section 11; and
 - (iii) licences and other documents,
issued and used under or for the purposes of this Act; and
- (zp) the regulation of the parking of motor vehicles in metered zones; and
- (zq) the operation and treatment of parking meters; and
- (zr) the method of payment into parking meters; and
- (zs) the number and denomination of coins to be inserted in a parking meter in respect of a metered space per hour or part of an hour; and
- (zt) prescribing the matters in relation to which fees are payable and the fees to be paid; and
- (zu) imposing taxation on motor vehicles; and
- (zv) prescribing penalties of fines not exceeding K50.00 for offences against the regulations made for the purposes of Part IV., or for failures to comply with traffic signs constructed, marked, placed, erected or affixed under that Part; and
- (zw) prescribing penalties of fines not exceeding K500.00 or imprisonment for a term not exceeding six months, or both, and default penalties of fines not exceeding K50.00 for offences against the regulations; and

- (zx)³⁸ prescribing the hours during which a motor vehicle owned by the State may be driven and the label authorizing its being driven outside those hours and the manner of reporting action taken under Section 44A; and
- (zy)³⁹ making provision for the compulsory fitting of seat belts to motor vehicles and for the compulsory wearing of such seat belts by drivers and passengers.

Office of Legislative Counsel, PNG

³⁸ Section 47(zx) added by *Motor Traffic (Amendment) Act 1987* (No. 16 of 1987), s7.

³⁹ Section 47(zy) added by *Motor Traffic (Amendment No. 2) Act 1989* (No. 12 of 1989).